

REFERENCE TITLE: private schools; scholarships; disabled pupils

State of Arizona  
House of Representatives  
Forty-seventh Legislature  
Second Regular Session  
2006

## HB 2676

Introduced by  
Representatives Knaperek, Biggs, Smith, Senator Huppenthal:  
Representatives Allen J, Anderson, Gorman, Groe, Nichols, Stump, Weiers  
JP, Yarbrough

AN ACT

AMENDING TITLE 15, CHAPTER 8, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 8;  
MAKING AN APPROPRIATION; RELATING TO SCHOOL ENROLLMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 15, chapter 8, Arizona Revised Statutes, is amended  
3 by adding article 8, to read:

4 ARTICLE 8. ARIZONA SCHOLARSHIPS FOR  
5 PUPILS WITH DISABILITIES

6 15-891. Arizona scholarships for pupils with disabilities  
7 program; definition

8 A. THE ARIZONA SCHOLARSHIPS FOR PUPILS WITH DISABILITIES PROGRAM IS  
9 ESTABLISHED TO PROVIDE PUPILS WITH DISABILITIES WITH THE OPTION OF ATTENDING  
10 ANY PUBLIC SCHOOL OF THE PUPIL'S CHOICE OR RECEIVING A SCHOLARSHIP TO ANY  
11 PRIVATE SCHOOL OF THE PUPIL'S CHOICE.

12 B. THE PARENT OF A PUBLIC SCHOOL PUPIL WITH A DISABILITY WHO IS  
13 DISSATISFIED WITH THE PUPIL'S PROGRESS MAY REQUEST AND RECEIVE FROM THE STATE  
14 A SCHOLARSHIP FOR THE CHILD TO ENROLL IN AND ATTEND ANY PRIVATE SCHOOL IN  
15 ACCORDANCE WITH THIS SECTION IF BOTH OF THE FOLLOWING APPLY:

16 1. THE CHILD HAS SPENT THE PRIOR SCHOOL YEAR IN ATTENDANCE AT A PUBLIC  
17 SCHOOL IN THIS STATE.

18 2. THE PARENT HAS OBTAINED ACCEPTANCE FOR ADMISSION OF THE PUPIL TO A  
19 PRIVATE SCHOOL THAT IS ELIGIBLE FOR THE PROGRAM UNDER THIS ARTICLE AND HAS  
20 NOTIFIED THE SCHOOL DISTRICT OF THE REQUEST FOR A SCHOLARSHIP AT LEAST SIXTY  
21 DAYS BEFORE THE DATE OF THE FIRST SCHOLARSHIP PAYMENT. THE PARENTAL  
22 NOTIFICATION MUST BE THROUGH A COMMUNICATION DIRECTLY TO THE SCHOOL DISTRICT  
23 OR THROUGH THE DEPARTMENT OF EDUCATION TO THE SCHOOL DISTRICT IN A MANNER  
24 THAT CREATES A WRITTEN OR ELECTRONIC RECORD OF THE NOTIFICATION AND THE DATE  
25 OF RECEIPT OF THE NOTIFICATION.

26 C. THIS SECTION DOES NOT APPLY TO A PUPIL WHO IS ENROLLED IN THE STATE  
27 EDUCATIONAL SYSTEM FOR COMMITTED YOUTH PURSUANT TO CHAPTER 11.1 OF THIS  
28 TITLE.

29 D. A SCHOLARSHIP AWARDED PURSUANT TO THIS ARTICLE REMAINS IN FORCE  
30 UNTIL THE PUPIL RETURNS TO A PUBLIC SCHOOL OR GRADUATES FROM HIGH SCHOOL,  
31 EXCEPT THAT THE PUPIL'S PARENT MAY REMOVE THE PUPIL FROM THE PRIVATE SCHOOL  
32 AT ANY TIME AND PLACE THE PUPIL IN ANOTHER PRIVATE SCHOOL THAT IS ELIGIBLE  
33 FOR PARTICIPATION IN THE ARIZONA SCHOLARSHIPS FOR PUPILS WITH DISABILITIES  
34 PROGRAM OR IN A PUBLIC SCHOOL AS PROVIDED IN THIS ARTICLE.

35 E. NOTWITHSTANDING THE ENROLLMENT POLICIES OR DESEGREGATION PROVISIONS  
36 PRESCRIBED IN ARTICLE 1.1 OF THIS CHAPTER, A SCHOOL DISTRICT OR CHARTER  
37 SCHOOL SHALL ENROLL ANY CHILD WHO IS AWARDED A SCHOLARSHIP PURSUANT TO THIS  
38 ARTICLE.

39 F. FOR THE PURPOSES OF THIS ARTICLE, "PUPIL WITH A DISABILITY" MEANS A  
40 CHILD WITH A DISABILITY AS DEFINED IN SECTION 15-761 WHO HAS BEEN ISSUED AN  
41 INDIVIDUALIZED EDUCATION PROGRAM AS DEFINED IN SECTION 15-761.

42 15-891.01. Obligations of school districts and department of  
43 education

44 A. A SCHOOL DISTRICT SHALL TIMELY NOTIFY THE PARENT OF EACH PUPIL WITH  
45 A DISABILITY OF ALL OPTIONS AVAILABLE PURSUANT TO THIS ARTICLE AND OFFER THAT

PUPIL'S PARENT AN OPPORTUNITY TO ENROLL THE PUPIL IN ANOTHER PUBLIC SCHOOL WITHIN THE DISTRICT. THE PARENT IS NOT REQUIRED TO ACCEPT THIS OFFER INSTEAD OF REQUESTING AN ARIZONA SCHOLARSHIP TO A PRIVATE SCHOOL. HOWEVER, IF THE PARENT CHOOSES THE PUBLIC SCHOOL OPTION, THE PUPIL MAY CONTINUE ATTENDING A PUBLIC SCHOOL CHOSEN BY THE PARENT UNTIL THE PUPIL GRADUATES FROM HIGH SCHOOL. THE TRANSPORTATION PROVISIONS SET FORTH IN SECTION 15-816.01 APPLY TO PUPILS WHO PARTICIPATE IN THE SCHOLARSHIP PROGRAM PURSUANT TO THIS ARTICLE.

B. IF THE PARENT CHOOSES THE PRIVATE SCHOOL OPTION AND THE PUPIL IS ACCEPTED BY THE PRIVATE SCHOOL PENDING THE AVAILABILITY OF SPACE FOR THE PUPIL, THE PARENT OF THE PUPIL MUST NOTIFY THE SCHOOL DISTRICT SIXTY DAYS BEFORE THE FIRST SCHOLARSHIP PAYMENT AND BEFORE ENROLLING THE CHILD IN THE PRIVATE SCHOOL TO BE ELIGIBLE FOR THE SCHOLARSHIP WHEN SPACE BECOMES AVAILABLE FOR THE PUPIL IN THE PRIVATE SCHOOL.

C. THE PARENT OF A PUPIL MAY CHOOSE TO ENROLL THE PUPIL IN AND TRANSPORT THE PUPIL TO A PUBLIC SCHOOL IN AN ADJACENT SCHOOL DISTRICT THAT HAS AVAILABLE SPACE AND THAT HAS A PROGRAM THAT COMPLIES WITH THE PUPIL'S INDIVIDUALIZED EDUCATION PROGRAM, AND THAT SCHOOL DISTRICT SHALL ACCEPT THE PUPIL FOR ADMISSION TO THE PUBLIC SCHOOL.

D. IF A PARENT OF A PUPIL WHO RESIDES IN THE SCHOOL DISTRICT AND WHO PARTICIPATES IN THE ARIZONA SCHOLARSHIPS FOR PUPILS WITH DISABILITIES PROGRAM REQUESTS THAT THE PUPIL TAKE ANY OF THE STATEWIDE TESTS PRESCRIBED BY THIS TITLE, THE SCHOOL DISTRICT SHALL PROVIDE LOCATIONS AND TIMES TO TAKE THESE STATEWIDE TESTS.

E. A SCHOOL DISTRICT SHALL NOTIFY THE DEPARTMENT OF EDUCATION WITHIN TEN DAYS AFTER THE SCHOOL DISTRICT RECEIVES NOTIFICATION OF A PARENT'S INTENT TO APPLY FOR A SCHOLARSHIP FOR A PUPIL WITH A DISABILITY.

15-891.02. Private school eligibility

TO BE ELIGIBLE TO PARTICIPATE IN THE ARIZONA SCHOLARSHIPS FOR PUPILS WITH DISABILITIES PROGRAM, A PRIVATE SCHOOL SHALL BE LOCATED IN THIS STATE, MAY BE SECTARIAN OR NONSECTARIAN AND SHALL COMPLY WITH EACH OF THE FOLLOWING REQUIREMENTS:

1. DEMONSTRATE FISCAL SOUNDNESS BY BEING IN OPERATION FOR AT LEAST ONE SCHOOL YEAR BEFORE PARTICIPATION IN THE PROGRAM OR BY PROVIDING THE DEPARTMENT OF EDUCATION WITH A STATEMENT BY A CERTIFIED PUBLIC ACCOUNTANT CONFIRMING THAT THE PRIVATE SCHOOL IS INSURED AND THAT THE OWNER OR OWNERS HAVE SUFFICIENT CAPITAL OR CREDIT TO OPERATE THE SCHOOL FOR THE UPCOMING YEAR AND TO SERVE THE NUMBER OF PUPILS ANTICIPATED WITH EXPECTED REVENUES FROM TUITION AND OTHER SOURCES THAT MAY BE REASONABLY EXPECTED. INSTEAD OF A STATEMENT FROM A CERTIFIED PUBLIC ACCOUNTANT, A SURETY BOND OR LETTER OF CREDIT FOR THE AMOUNT EQUAL TO THE SCHOLARSHIP MONIES FOR ANY QUARTER MAY BE FILED WITH THE DEPARTMENT.

1           2. NOTIFY THE DEPARTMENT OF EDUCATION OF THE PRIVATE SCHOOL'S INTENT  
2 TO PARTICIPATE IN THE PROGRAM UNDER THIS ARTICLE. THE NOTICE SHALL SPECIFY  
3 THE GRADE LEVELS AND SERVICES THAT THE PRIVATE SCHOOL OFFERS FOR PUPILS WITH  
4 DISABILITIES WHO ARE PARTICIPATING IN THE SCHOLARSHIP PROGRAM.

5           3. COMPLY WITH THE ANTIDISCRIMINATION PROVISIONS OF 42 UNITED STATES  
6 CODE SECTION 2000d.

7           4. COMPLY WITH ALL STATE AND LOCAL HEALTH AND SAFETY LAWS AND  
8 REGULATIONS.

9           5. BE ACADEMICALLY ACCOUNTABLE TO THE PARENT FOR MEETING THE  
10 EDUCATIONAL NEEDS OF THE PUPIL.

11          6. EMPLOY OR CONTRACT WITH TEACHERS WHO HOLD BACCALAUREATE OR HIGHER  
12 DEGREES, WHO HAVE AT LEAST THREE YEARS OF TEACHING EXPERIENCE IN PUBLIC OR  
13 PRIVATE SCHOOLS OR WHO HAVE SPECIAL SKILLS, KNOWLEDGE OR EXPERTISE THAT  
14 QUALIFIES THOSE PERSONS TO PROVIDE INSTRUCTION IN THE SUBJECTS TAUGHT.

15          7. COMPLY WITH ALL STATE LAWS RELATING TO THE REGULATION OF PRIVATE  
16 SCHOOLS.

17          8. ADHERE TO THE TENETS OF ITS PUBLISHED DISCIPLINARY PROCEDURES  
18 BEFORE THE EXPULSION OF A SCHOLARSHIP PUPIL.

19       15-891.03. Obligations of program participants

20          A. PARENTS WHO APPLY FOR ARIZONA SCHOLARSHIPS PURSUANT TO THIS ARTICLE  
21 ARE EXERCISING THEIR PARENTAL OPTION TO PLACE THEIR CHILDREN IN A PRIVATE  
22 SCHOOL. A PARENT EXERCISING THIS OPTION SHALL SELECT THE PRIVATE SCHOOL AND  
23 APPLY FOR THE ADMISSION OF THE PUPIL.

24          B. THE PARENT SHALL REQUEST THE SCHOLARSHIP OFFERED PURSUANT TO THIS  
25 ARTICLE AT LEAST SIXTY DAYS BEFORE THE DATE OF THE FIRST SCHOLARSHIP PAYMENT.

26          C. ANY PUPIL WHO PARTICIPATES IN THE SCHOLARSHIP PROGRAM OFFERED  
27 PURSUANT TO THIS ARTICLE SHALL REMAIN IN ATTENDANCE THROUGHOUT THE SCHOOL  
28 YEAR, UNLESS THE PUPIL IS EXCUSED BY THE SCHOOL FOR ILLNESS OR FOR OTHER GOOD  
29 CAUSE, AND THE PUPIL SHALL FULLY COMPLY WITH THE SCHOOL'S WRITTEN POLICIES  
30 CONCERNING STUDENT CONDUCT.

31          D. THE PARENT OF EACH PUPIL WHO PARTICIPATES IN THE SCHOLARSHIP  
32 PROGRAM SHALL COMPLY FULLY WITH THE PRIVATE SCHOOL'S PARENTAL INVOLVEMENT  
33 REQUIREMENTS, UNLESS THE PARENT IS EXCUSED BY THE SCHOOL FOR ILLNESS OR FOR  
34 OTHER GOOD CAUSE.

35          E. IF THE PARENT REQUESTS THAT THE PUPIL WHO PARTICIPATES IN THE  
36 SCHOLARSHIP PROGRAM PARTICIPATE IN THE STATEWIDE TESTS PRESCRIBED BY THIS  
37 TITLE, THE PARENT IS RESPONSIBLE FOR TRANSPORTING THE PUPIL TO AN ASSESSMENT  
38 SITE DESIGNATED BY THE SCHOOL DISTRICT.

39          F. ON RECEIPT OF A SCHOLARSHIP WARRANT, THE PARENT TO WHOM THE WARRANT  
40 IS ISSUED SHALL RESTRICTIVELY ENDORSE THE WARRANT TO THE PRIVATE SCHOOL FOR  
41 DEPOSIT INTO THE ACCOUNT OF THE PRIVATE SCHOOL.

42          G. A PARTICIPANT WHO FAILS TO COMPLY WITH THIS SECTION FORFEITS THE  
43 SCHOLARSHIP AWARDED PURSUANT TO THIS ARTICLE.

1           15-891.04. Scholarship funding and payment: fund: liability:  
2                                   rules

3           A. THE MAXIMUM SCHOLARSHIP GRANTED FOR A PUPIL WITH A DISABILITY SHALL  
4 BE EQUIVALENT TO THE BASE SUPPORT LEVEL PRESCRIBED IN SECTION 15-943 FOR THAT  
5 PARTICULAR PUPIL.

6           B. THE AMOUNT OF ANY ASSESSMENT FEE REQUIRED BY THE PARTICIPATING  
7 PRIVATE SCHOOL MAY BE PAID FROM THE TOTAL AMOUNT OF THE SCHOLARSHIP. THE  
8 AMOUNT OF THE ARIZONA SCHOLARSHIP SHALL BE THE LESSER OF:

9           1. THE AMOUNT PRESCRIBED IN SUBSECTION A OF THIS SECTION.

10          2. THE AMOUNT OF THE PRIVATE SCHOOL'S TUITION AND FEES OR THE ACTUAL  
11 PER PUPIL COSTS, WHICHEVER IS GREATER.

12          C. IF THE PARTICIPATING PRIVATE SCHOOL REQUIRES PARTIAL PAYMENT OF  
13 TUITION BEFORE THE START OF THE ACADEMIC YEAR TO RESERVE SPACE FOR PUPILS  
14 ADMITTED TO THE SCHOOL, A PARTIAL SCHOLARSHIP PAYMENT MAY BE PAID BY THE  
15 DEPARTMENT OF EDUCATION BEFORE THE FIRST QUARTERLY PAYMENT OF THE YEAR IN  
16 WHICH THE ARIZONA SCHOLARSHIP IS AWARDED, UP TO A MAXIMUM OF ONE THOUSAND  
17 DOLLARS, AND THE AMOUNT OF THIS PAYMENT SHALL BE DEDUCTED FROM SUBSEQUENT  
18 SCHOLARSHIP PAYMENTS. IF A PUPIL DECIDES NOT TO ATTEND THE PARTICIPATING  
19 PRIVATE SCHOOL, THE PARTIAL RESERVATION PAYMENT SHALL BE RETURNED TO THE  
20 DEPARTMENT OF EDUCATION BY THE PARTICIPATING PRIVATE SCHOOL. A PUPIL SHALL  
21 NOT BE AWARDED MORE THAN ONE RESERVATION PAYMENT PER YEAR.

22          D. THE SCHOOL DISTRICT SHALL REPORT TO THE DEPARTMENT OF EDUCATION ALL  
23 PUPILS WHO ARE ATTENDING A PRIVATE SCHOOL UNDER THE SCHOLARSHIP PROGRAM  
24 OFFERED PURSUANT TO THIS ARTICLE.

25          E. THE ARIZONA SCHOLARSHIP FOR PUPILS WITH DISABILITIES PROGRAM FUND  
26 IS ESTABLISHED CONSISTING OF MONIES APPROPRIATED FOR THIS PURPOSE. THE  
27 DEPARTMENT OF EDUCATION SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE  
28 CONTINUOUSLY APPROPRIATED. FOLLOWING NOTIFICATION OF THE NUMBER OF PROGRAM  
29 PARTICIPANTS IN THE SCHOLARSHIP PROGRAM, THE DEPARTMENT OF EDUCATION SHALL  
30 TRANSFER FROM THE FUND THE AMOUNT CALCULATED UNDER SUBSECTION A OF THIS  
31 SECTION IN QUARTERLY INSTALLMENTS TO THE PARENTS OF PUPILS WHO PARTICIPATE IN  
32 THE SCHOLARSHIP PROGRAM. WHEN A PUPIL ENTERS THE SCHOLARSHIP PROGRAM, THE  
33 DEPARTMENT OF EDUCATION SHALL RECEIVE ALL DOCUMENTATION REQUIRED FOR THE  
34 PUPIL'S PARTICIPATION, INCLUDING THE PRIVATE SCHOOL'S AND PUPIL'S FEE  
35 SCHEDULES, AT LEAST THIRTY DAYS BEFORE THE FIRST QUARTERLY SCHOLARSHIP  
36 PAYMENT IS MADE FOR THE PUPIL. THE DEPARTMENT OF EDUCATION SHALL NOT MAKE  
37 ANY RETROACTIVE PAYMENTS FROM THE FUND.

38          F. ON PROPER DOCUMENTATION REVIEWED AND APPROVED BY THE DEPARTMENT OF  
39 EDUCATION, THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL MAKE SCHOLARSHIP  
40 PAYMENTS IN FOUR EQUAL ANNUAL INSTALLMENTS ON DATES SELECTED BY THE  
41 DEPARTMENT OF EDUCATION. THE INITIAL PAYMENT SHALL BE MADE AFTER THE  
42 DEPARTMENT OF EDUCATION VERIFIES THAT THE PUPIL HAS BEEN ACCEPTED FOR  
43 ADMISSION AT THE PRIVATE SCHOOL, AND SUBSEQUENT PAYMENTS SHALL BE MADE ON  
44 VERIFICATION OF CONTINUED ENROLLMENT AND ATTENDANCE AT THE PRIVATE SCHOOL.  
45 PAYMENT SHALL BE BY INDIVIDUAL WARRANT PAYABLE TO THE PUPIL'S PARENT AND

1 MAILED BY THE DEPARTMENT OF EDUCATION TO THE PRIVATE SCHOOL OF THE PARENT'S  
2 CHOICE, AND THE PARENT SHALL RESTRICTIVELY ENDORSE THE WARRANT TO THE PRIVATE  
3 SCHOOL FOR DEPOSIT INTO THE ACCOUNT OF THE PRIVATE SCHOOL.

4 G. LIABILITY SHALL NOT ARISE ON THE PART OF THE STATE BASED ON THE  
5 AWARD OR USE OF AN ARIZONA SCHOLARSHIP.

6 H. THE STATE BOARD OF EDUCATION MAY ADOPT RULES TO CARRY OUT THE  
7 PURPOSES OF THIS ARTICLE, EXCEPT THAT THE INCLUSION OF ELIGIBLE PRIVATE  
8 SCHOOLS IN THE SCHOLARSHIP PROGRAM SHALL NOT BE CONSTRUED TO EXPAND THE  
9 REGULATORY AUTHORITY OF THIS STATE OR ITS OFFICERS OR ANY SCHOOL DISTRICT TO  
10 IMPOSE ANY ADDITIONAL REGULATION OF PRIVATE SCHOOLS BEYOND THOSE REASONABLY  
11 NECESSARY TO ENFORCE THE REQUIREMENTS OF THIS ARTICLE.

12 15-891.05. Program termination

13 THE PROGRAM ESTABLISHED BY THIS ARTICLE ENDS ON JULY 1, 2016 PURSUANT  
14 TO SECTION 41-3102.

15 Sec. 2. Appropriation; purpose; exemption

16 A. The sum of \$\_\_\_\_\_ is appropriated from the state general fund  
17 in fiscal year 2006-2007 to the department of education for deposit in the  
18 Arizona scholarship for pupils with disabilities program fund established by  
19 section 15-891.04, Arizona Revised Statutes, as added by this act.

20 B. The appropriation made in subsection A of this section is exempt  
21 from the provisions of section 35-190, Arizona Revised Statutes, relating to  
22 lapsing of appropriations.